

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

Yovany Padilla

Plaintiff,

v.

PNC Bank, National Association

Defendant.

Civil Action No. 1:18-cv-00131-WES-PAS

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, Defendant PNC Bank, National Association (“PNC”) hereby moves for summary judgment on the sole claim asserted in the Complaint filed by Plaintiff Yovany Padilla (“Padilla”).

This matter arises from PNC’s foreclosure of a mortgage granted by Padilla and secured by property located at 132-134 Hendricks Street, Central Falls, Rhode Island (the “Property”) following Padilla’s default on the mortgage loan. Padilla alleges PNC breached the loan agreement incorporating HUD regulations by, *inter alia*, failing to conduct a face-to-face meeting with Padilla prior to notice of default and acceleration of the loan.

As set forth in the accompanying Memorandum of Law, Padilla’s claim for breach of contract and failure to comply with the terms of the mortgage prior to foreclosure fails as a matter of law where Padilla failed to reaffirm the mortgage while in bankruptcy. By choosing not to reaffirm the debt, Padilla effectively surrendered his right to contest PNC’s subsequent foreclosure following his default on the mortgage. Thus, Padilla’s Complaint is insufficient as a matter of law and PNC is entitled to summary judgment.

In support of this Motion, PNC relies on the accompanying Memorandum of Law in Support of PNC Bank, National Association's Motion for Summary Judgment and the Affidavit of Shanna M. Boughton.

WHEREFORE, PNC Bank, National Association respectfully requests this Court grant its Motion for Summary Judgment and grant such other relief as this Court deems just and proper.

Dated: April 15, 2019

Respectfully submitted,
PNC BANK, NATIONAL ASSOCIATION
By its attorney,

/s/ Shanna M. Boughton
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CERTIFICATE OF SERVICE

I hereby certify that on April 15, 2019, a true copy of the within was filed and served through the electronic filing system on the following:

John B. Ennis
1200 Reservoir Avenue
Cranston, Rhode Island 02920
Email: Jbelaw75@gmail.com

/s/ Shanna M. Boughton
Shanna M. Boughton